



4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2010-N-0622]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Color Additive Certification Requests and Recordkeeping

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review - Open for Public Comments" or by using the search function. The OMB control number for this information collection is 0910-0216. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-5733, [PRAStaff@fda.hhs.gov](mailto:PRAStaff@fda.hhs.gov).

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Color Additive Certification Requests and Recordkeeping--21 CFR Part 80

OMB Control Number 0910-0216--Extension

We have regulatory oversight for color additives used in foods, drugs, cosmetics, and medical devices. Section 721(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 379e(a)) provides that a color additive shall be deemed to be unsafe unless it meets the requirements of a listing regulation, including any requirement for batch certification, and is used in accordance with the regulation. We list color additives that have been shown to be safe for their intended uses in Title 21 of the Code of Federal Regulations (CFR). We require batch certification for all color additives listed in 21 CFR part 74 and for all color additives provisionally listed in 21 CFR part 82. Color additives listed in 21 CFR part 73 are exempted from certification.

The requirements for color additive certification are described in 21 CFR part 80. In the certification procedure, a representative sample of a new batch of color additive, accompanied by a "request for certification" that provides information about the batch, must be submitted to FDA's Office of Cosmetics and Colors. FDA personnel perform chemical and other analyses of the representative sample and, providing the sample satisfies all certification requirements, issue a certification lot number for the batch. We charge a fee for certification based on the batch weight and require manufacturers to keep records of the batch pending and after certification.

Under § 80.21 (21 CFR 80.21), a request for certification must include: name of color additive, manufacturer's batch number and weight in pounds, name and address of manufacturer, storage conditions, statement of use(s), certification fee, and signature of person requesting

certification. Under § 80.22 (21 CFR 80.22), a request for certification must include a sample of the batch of color additive that is the subject of the request. The sample must be labeled to show: name of color additive, manufacturer's batch number and quantity, and name and address of person requesting certification. Under § 80.39 (21 CFR 80.39), the person to whom a certificate is issued must keep complete records showing the disposal of all of the color additive covered by the certificate. Such records are to be made available upon request to any accredited representative of FDA until at least 2 years after disposal of all of the color additive.

The purpose for collecting this information is to help us assure that only safe color additives will be used in foods, drugs, cosmetics, and medical devices sold in the United States. The required information is unique to the batch of color additive that is the subject of a request for certification. The manufacturer's batch number is used for temporarily identifying a batch of color additive until FDA issues a certification lot number and for identifying a certified batch during inspections. The manufacturer's batch number also aids in tracing the disposal of a certified batch or a batch that has been denied certification for noncompliance with the color additive regulations.

The manufacturer's batch weight is used for assessing the certification fee. The batch weight also is used to account for the disposal of a batch of certified or certification-denied color additive. The batch weight can be used in a recall to determine whether all unused color additive in the batch has been recalled.

The manufacturer's name and address and the name and address of the person requesting certification are used to contact the person responsible should a question arise concerning compliance with the color additive regulations. Information on storage conditions pending certification is used to evaluate whether a batch of certified color additive is inadvertently or

intentionally altered in a manner that would make the sample submitted for certification analysis unrepresentative of the batch. We check storage information during inspections. Information on intended uses for a batch of color additive is used to assure that a batch of certified color additive will be used in accordance with the requirements of its listing regulation. The statement of the fee on a certification request is used for accounting purposes so that a person requesting certification can be notified promptly of any discrepancies.

*Description of Respondents:* The respondents include businesses engaged in the manufacture of color additives used in FDA-regulated foods, drugs, cosmetics, and medical devices. Respondents are from the private sector (for-profit businesses).

In the *Federal Register* of April 16, 2020 (85 FR 21250), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

Table 1.--Estimated Annual Reporting Burden<sup>1</sup>

21 CFR Section; Activity	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Average Burden per Response	Total Hours
80.21; Request for certification	38	198	7,524	0.17 (10 minutes)	1,279
80.22; Sample to accompany request	38	198	7,524	0.05 (3 minutes)	376
Total				0.22 (13 minutes)	1,655

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

Table 2.--Estimated Annual Recordkeeping Burden<sup>1</sup>

21 CFR Section; Activity	No. of Recordkeepers	No. of Records per Recordkeeper	Total Annual Records	Average Burden per Recordkeeping	Total Hours
80.39; Record of distribution	38	198	7,524	0.25 (15 minutes)	1,881

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: July 23, 2020.

Lauren K. Roth,

Associate Commissioner for Policy.

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